

TOWN OF CORNWALL

ZONING BOARD

JUNE 17, 2013

MEMBERS PRESENT: EILEEN REGAN, ACTING CHAIRMAN  
TED DOBIAS  
WILLIAM LEE

ALSO PRESENT: ADAM RODD, ESQ.  
ZONING BOARD ATTORNEY

ABSENT: LENORA RANSOM

MEETING AGENDA:

1. Eliakostas & Zagon lot line change

**REGULAR MEETING:**

MS. REGAN: The June 17, 2013 meeting of the Cornwall Zoning Board of Appeals will now come to order. We have one public hearing this evening. Lenora Ransom, Zoning Board Chairperson is not present and as Vice Chairperson, I will chair the meeting.

APPROVAL OF MINUTES DATED 5/20/13

MS. REGAN: We can do the approval of the minutes of May 20, 2013. Do I have a motion to approve the minutes of the May 20, 2013 meeting?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
MR. LEE	AYE
MS. REGAN	AYE

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CORRESPONDENCE

MS. REGAN: With regard to correspondence, Dave Aleci has withdrawn his application and he moved his pool to comply with the setback requirements and he got a permit to do so. The board has received two letters from Nancy Lewitt dated May 21 and May 24, 2013.

PUBLIC HEARING

ELIAKOSTAS & ZAGON LOT LINE CHANGE

MS. REGAN: Okay, this evening the public hearing we have a planning board referral regarding the Eliakostas and Zagon lot line change. Minutes from the planning board have been provided to the zoning board as well as comments from the planning board consultants. Is there someone here to represent this?

MR. KNOWLTON: Yes, my name is Rodney Knowlton, I'm from Lanc & Tully Engineering and Surveying.

MS. REGAN: Do you have a copy of the legal notice and proof of mailing?

MR. KNOWLTON: Yes, I believe I do.

MS. REGAN: Would you please give it to Fran?

MS. REGAN: Okay, legal notice. Notice is hereby given that the Zoning Board of Appeals of the Town of Cornwall, County of Orange, State of New York will hold a public hearing at the Town Hall, 183 Main Street, Cornwall, New York on June 17, 2013 at 7:00 p.m. or as soon thereafter as the matter can be heard on the application of David Zagon and John Eliakostas relating to property located at 13 and 15 Orr Hatch Drive and designated on the tax map as Section 30, Block 1, Lot 17 and 18. The applicant seeks an area variance to Section 158-12, Part One, SLR District, Use Group B, Columns #3 and 10 to allow a lot line change between the two non-conforming properties. Lot 18 which already has insufficient lot area seeks to increase the non-conformance by transferring .048 acres to lot 17. The requested transfer of .0048 acres to lot 17 will leave lot 18 with a total of 1.366 acres which is 0.6339 acres short of the two acres required by zoning. The requested transfer of lot area will also increase the deficiency of lot 18 with the maximum allowable developmental coverage leaving a total lot developmental coverage of 18.2 percent or 6.2 percent over the maximum limit. The zoning board will at the above time and place hear all persons interested in the application. All written communication should be received by the board at or prior to the hearing. Mr. Knowlton, would you like to make your presentation to the board please?

MR. KNOWLTON: Yes, please. To start with, is there, does everybody have a copy of the survey?

MS. REGAN: Yes.

MR. KNOWLTON: My next question simply is there any other paperwork that I need to turn in? I do have a proxy, I just want to make sure that we received that.

MS. REGAN: Yes, we did receive that, we have that from Mr. Zagon. Adam, do you have your copy?

MR. RODD: I have it.

MS. REGAN: Thank you.

MR. KNOWLTON: Simply just a brief overall explanation of what you were looking at on the survey map, Orr Hatch Drive is where the properties are located. The, you know, Eliakostas' address is 15 Orr Hatch, Zagon is 13 Orr Hatch Drive. As you're looking at the properties on the left-hand side of the map is the Zagon parcel and the right portion of the right house and property is the Eliakostas parcel. And what we're requesting is that a portion of the property belonging to the Zagons be conveyed to the property currently owned by Eliakostas. And the area of consideration is represented on the map by the hatched area, the little triangle sliver that starts about halfway down the common property line and widens to 27.64 feet in the rear of the property. And we were approached by both parties, my understanding is that both parties are in complete agreement with this proposed configuration and what it does is essentially solves a problem in which Eliakostas apparently they constructed a fence and were encroaching slightly onto the Zagon property and we were known to them so the two parties, once we surveyed the properties and it was brought to their attention that there was a little bit of an intrusion onto the Zagon property it was agreed by the parties that what they would seek is a lot line change to rectify the problem, rather than go through the process of actually taking down the fence and moving things. Because apparently having been a surveyor and seen the property, the lay of the land, there's quite a bit of a rise right up to the fence and it just seemed to be property that the Zagons were not ever going to really utilize. So I think that both parties came to this arrangement thinking that this is just sort of what makes sense based on the lay of the land, not worth

moving a fence and so on.

MR. RODD: Just out of curiosity, how was it that it was figured out that some of the improvements encroached on the Zagon property?

MR. KNOWLTON: Matter of fact, it was surveyed by my company that this was discovered, we did the original subdivision back in 2004 and subsequently filed the map and in that process we did initial survey maps for the individual home owners that purchased properties. But we hadn't been back to the site for quite some time so the Zagons not being original owners, I believe they purchased property within the last couple years, probably a short sale because they never asked for a survey, but subsequently once they moved in, they kind of realized we don't really know where our lines are. They called Lanc & Tully, said would you please give us a property stakeout, seeing that we did the original subdivision, that's when it came to light and when we set corners, specifically the back rear corner that we set in the back stone wall then it was clear that the neighbors were encroaching. That's what brought it to their attention. Don't know what subsequently happened, I assumed they talked to each other and this, it was both of them that got back to us and said I think we have a solution, how do we want to handle it.

MS. REGAN: When the Zagons purchased the property, how is it that the title company didn't pick that up?

MR. KNOWLTON: I don't know for a fact but I think it was a short sale and when a short sale typically we're not asked to do survey updates and all the liability rests on the person purchasing.

MS. REGAN: And the other thing is I noticed in the planning board minutes that were forwarded to this board that he had accidentally, he being Mr. Eliakostas had gone across the property line with several of the improvements being a driveway which pretty much goes right up to the property line and he had built a shed in the back and installed a cast iron fence. But when I looked at survey, the shed nor the driveway appear to be impacted by the sliver that we're talking about.

MR. KNOWLTON: Well, the shed not at all, in fact, he's got, it really doesn't show on the map because it's not officially a driveway but there's a dirt path that goes back to the shed so we're talking about a dirt path

encroaching, not the shed itself.

MS. REGAN: Because in the planning board minutes it referred to those items. Okay.

MR. KNOWLTON: Driveway's ever so slightly over the property line, a matter of less than a foot, I believe.

MS. REGAN: Okay.

MR. RODD: So basically the two variances that you're seeking consist of slightly reducing the lot area on lot 18, Zagon property, and slightly increasing the lot development coverage on lot 18?

MR. KNOWLTON: Yes.

MR. RODD: And that would be the only two pre-existing, non-conformities that would be increased?

MR. KNOWLTON: Yes.

MR. RODD: And on lot 17 I know I'm going to mispronounce it, the Eliakostas lot, there would be no increase in any pre-existing-non-conformities because it's actually acquiring.

MR. KNOWLTON: Because it's actually acquiring, exactly.

MS. REGAN: The other thing I note here that Garland Associates project analysis that we're in receipt of that they have a note here that the applicant's surveyor doublecheck the actual lot width for both lots and required rear yard setback because their measurements are indicating that the lot line change would leave lot 18 with at least 160 feet which would be sufficient even with the lot line change. And if the figures as shown on the zoning compliance table for lot 18 are correct, then this would also require a variance for the required lot width at the required rear yard setback because it would take a conforming figure and make it slightly non-conforming.

MR. KNOWLTON: That, actually, yeah, I agree with what you just said, in fact, that's actually true, I believe, yes.

MS. REGAN: Has that been done? Did you doublecheck that?

MR. KNOWLTON: Yes, in fact, yes, the width of the Zagon parcel does slightly get smaller.

MS. REGAN: So is that something, Adam, that has to be addressed?

MR. RODD: Well, what I would recommend is, I don't know if you have the exact figure with you now, but I think if to the extent the board is going to put this over for decision until July, if there is going to be a decrease in the required lot width to make it, lot 18 more non-conforming, if we can just plug in that number so we know what it is that we're asking in addition to developmental coverage and lot area.

MR. KNOWLTON: I apologize, I don't know what's been covered before because I'm a fill-in.

MS. REGAN: So am I so it's okay. But as Adam just mentioned, you know, we'll make a decision, we anticipate making a decision next month so that will give you time to take care of that as well.

MR. KNOWLTON: I'll get that information for you, absolutely.

MS. REGAN: Does anyone on the board have any questions?

MR. LEE: No.

MR. DOBIAS: No.

MS. REGAN: Is there anyone in the audience that would like to speak to this issue? There are no members in the audience. Okay, so given the fact that we only have three board members here this evening, we would recommend that we hold it over to next month because if we don't have a uniform yes vote then it would not pass. So it would be better to wait until next month.

MR. KNOWLTON: Understandable.

MS. REGAN: So if that's okay, and we have no further business to come before, we'll hold this matter open until next month and next month's meeting is?

MR. RODD: I believe it's the 15th.

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MS. REGAN: July 15 at 7:00 p.m. and with no further business to come before the board, I will entertain a motion to adjourn.

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
MR. LEE	AYE
MS. REGAN	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer